

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN RIC HOLDEN**, on February 16, 2001 at 3:00 P.M., in Room 422, Capitol.

ROLL CALL

Members Present:

Sen. Ric Holden, Chairman (R)
Sen. Pete Ekegren, Vice Chairman (R)
Sen. Mike Halligan (D)
Sen. Greg Jergeson (D)
Sen. Walter McNutt (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Laramie Cumley, Committee Secretary
Doug Sternberg, Legislative Services

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 437, SJ 16 2/13/01
Executive Action: SB 437, SJ 16, SB 363

HEARING ON SB 437

Sponsor: SEN. MACK COLE, SD 4, HYSHAM

Proponents: Jeff Hagener, MT Fish, Wildlife and Parks
Roger Knapp, Representing himself
Allan Evans, Representing himself

REP. EDITH CLARK, HD 88
REP. JOHN BERGEMAN, POLSON
REP. ALAN OLSEN, Representing HD 8
REP. GAY ANN MASOLO, Representing HD 40
Brian Ratzberg, Representing himself
Steve Pilcher, Montana Stockgrowers Association
John Semple, Montana Cattle Womens Association
Earnest Ratzberg, Representing himself
Brad Birch, Representing himself
John Hadcock, Representing himself
Nancy Schlepp, Montana Farm Bureau Federation

Opponents: Jeff Barber, Montana Wildlife Federation
Stan Frasier, Montana Wildlife Federation

Opening Statement by Sponsor:

SEN. MACK COLE, SD 4, HYSHAM, stated the bill would improve landowner-sportsmen relationships. He suggested permitting for landowners, in which the number of permits or tags would be according to acreage. A percentage of the tags could be given to hunters from the landowner. These permits are necessary for game and damage of land management.

Proponents' Testimony:

Jeff Hagener presented written testimony. **EXHIBIT (ags39a01)** He noted presently animals are killed by the landowner, or the Fish, Wildlife, and Parks kills the animals and disposes of them. He stated the bill would give sportsmen a chance to harvest the animals rather than them being killed and disposed of.

Roger Knapp explained that there is at least 50 head of elk that have been damaging his land, the estimated damage ranging from \$10,000 to \$15,000. These elk numbers have been growing. He stated, if passed, the bill would soothe farmers and ranchers and provide much needed relief.

Allan Evans stated if the committee took a virtual helicopter ride they would be able to see the growing population of elk. He discussed concerns about private property management and people who have dominated land and resource policy and exemplified environmental overkill.

REP. EDITH CLARK explained 400 elk that graze in a herd like cattle and the impact they are having on the land.

REP. JOHN BERGAMAN discussed the population of a particular herd of elk north of Helena which has grown from 500 head to over 1000 head of elk. He said elk are getting smarter and they have learned to graze at night on places which are not open to hunters. This would be a good step to consider and is long overdue.

REP. ALLAN OLSEN supported the need for a positive relationship between hunters and landowners. He noted **REP. GAY ANN MASOLO** was also supportive of the bill.

Brian Ratzburg presented written testimony. **EXHIBIT(ags39a02)**

Steve Pilcher supported the bill.

John Semple supported the bill.

Earnest Ratzburg presented written testimony. **EXHIBIT(ags39a03)**

Brad Birch supported the bill and also presented a letter from **Wade Spears**. **EXHIBIT(ags39a04)**

Paul Johnson expressed his support for the bill and presented a letter from **John Hadcock**. **EXHIBIT(ags39a05)**

Nancy Schlepp stood in support of the bill.

Opponents' Testimony:

Jeff Barber questioned the reference made referring to compromise and he wondered with whom the compromise would be made. He said that the Montana Wildlife Federation had not been contacted during the drafting process of the bill to get input on the bill. He stated that the bill was open ended and he expressed his concern with the effects of non-residents draw of tags. Section 1, has no merit, he exclaimed. There is no verification of where the limits are and how many of these tags are going to be given out. He also asked what pool the tags were being drawn from. This is not a compromise in their opinion.

Stan Frasier explained he has spent years listening to farmers and ranchers complain about the wildlife eating all of their grass. These animals are part of the world we live in and there is no need to adjust the numbers. There is a long history of wildlife management which works. The Department of Fish, Wildlife, and Parks runs wild and does whatever they want and the Governors office and other government offices have too much influence on the wildlife issues on a political level. It is wrong to not base decisions on science and health of the herds.

This problem should be turned over to the Public Wildlife Private Lands Council to review.

Questions from Committee Members and Responses:

SEN. TOM ZOOK questioned the discussion regarding managing wildlife, yet there is land damage. He asked what kind of management is that?

Stan Frasier said previous testimony would explain the reason for this damage is because landowners do not allow hunting; Therefore, the animals are provided a refuge. This is a problem with people management and problems which neighbors create when they do not allow hunting.

SEN. ZOOK noted he has always allowed hunting, and tried the block management program. He said it's the kind of attitude that you express time after time in public meetings that shows such a lack of understanding. It make me very interested in closing it off to the public and only letting those either go with a lease or something like that.

Stan Frasier stated that he hunts mostly on public land. Landowners can either allow hunting to control the wildlife or feed them.

SEN. RIC HOLDEN clarified the intent of the previous questioning was to explain or question the way in which **Mr. Frasier's** testimony infuriates landowners.

Stan Frasier said he always infuriates landowners.

SEN. LINDA NELSON questioned the number of tags that would be available.

Jeff Hagener explained no more than two tags would be available in her area.

SEN. NELSON asked about B tags in her area and clarified the prices and rules in her area for non-residents who come and help harvest the discussed wildlife.

SEN. GREG JERGESON asked why there was a difference in the bill between deer and antelope and elk.

SEN. MACK COLE stated the smaller game are more spread out than elk.

SEN. JERGESON questioned the acreage qualification for the program and asked if the 1200 acre qualification could be adjusted.

SEN. COLE stated that the intent of the bill was for farmers and ranchers, not hobby farmers or ranchers or a group of hunters who went out and bought a small number of acres just to qualify for the program.

SEN. JERGESON asked about lessee qualification.

SEN. COLE stated that anything could be added to improve the bill.

SEN. JERGESON asked if an agricultural income qualification could be inserted in place of the acreage qualification.

SEN. COLE stated the figure should be left alone.

SEN. NELSON asked about the fiscal note on the bill.

SEN. COLE stated the impact of the fiscal note is large and unknown.

SEN. JON TESTER asked what kind of impact this would have on present draws.

Jeff Hagener stated that there would be some impact, although it would not be significant or harm the wildlife.

SEN. TESTER questioned the percentage of change.

Jeff Hagener stated that it is unknown.

SEN. PETE EKEGREN stated that **Mr. Barber** had said this was not a compromise bill because he was not consulted with, and questioned the reasoning of this comment.

Jeff Barber stated that the **Montana Wildlife Federation** is the largest organization of sportsmen and he would have thought that if the bill were to be a compromise, they would have been contacted regarding the issues.

SEN. EKEGREN asked if it were the policy of the **Department of Fish, Wildlife, and Parks** to clear everything with the **Montana Wildlife Federation**.

Jeff Hagener stated that he worked with **SEN. COLE** and it was not the department's place to include other organizations.

SEN. ZOOK asked if the department had contacted the Montana Wildlife Federation.

Jeff Hagener stated that he did discuss the bill with them a few days prior to the hearing.

SEN. ZOOK then asked if the department had contacted the **Montana Stockgrowers Association, the Montana Farm Bureau** and the other organizations.

Jeff Hagener stated that they did not because they were working with **SEN. COLE** at his invite.

SEN. HOLDEN questioned the present permit called the kill permit. He stated that they do not work well because the ranchers have to kill the animals, dress them out, and find someone to take them or dispose of them. How is this going to work differently?

Jeff Hagener explained the process suggested. There would be a certain number of tags given to the farmer or rancher and they would give a number of them out. The person would come in, kill the animal, dress it out, and the animal would belong to them. The first 3/4 of the tags would be for the farmer or rancher to give out, and the remaining tags would be drawn for the public.

SEN. HOLDEN asked if there would be a charge for these tags.

Jeff Hagener stated that the tags would be available under the general hunting license fee.

SEN. TESTER questioned the division of land although in the same entity and how this would affect the qualification.

Jeff Hagener read the section in which the definition is explained.

Closing by Sponsor:

SEN. COLE closed by explaining the problems and understood that all of the problems cannot be addressed. This will bring landowners and sportsmen together although there will be more responsibility on landowners.

HEARING ON SJ 16

SEN. PETE EKEGREN ACTING CHAIRMAN

Sponsor: SEN. RIC HOLDEN, SD 1, GLENDIVE

Proponents: Marc Bridges, Montana Department of Livestock
Pat Riley, Department of Natural Resources and
Conservation
Gloria Paladichuk, West Crane Irrigation Project,
Richland Economic Development
SEN. MAX BAUCUS
John Tubbs, Department of Natural Resources and
Conservation
Mike Murphy, Montana Water Resources Association
Nancy Schlepp, Montana Farm Bureau Federation

Opponents: none

Opening Statement by Sponsor:

SEN. RIC HOLDEN, SD 1, GLENDIVE stated the bill was requested by the committee. He explained that earlier in the century, the federal government promised the people whos land was taken and compensated for in order to build Fort Peck Dam, to be the beneficiaries of low cost energy. While they have lived up to that promise in most parts, they have not in all parts. Not everyone wanted to sell out to the federal government. These people were to receive low cost energy for the future development irrigation projects. He submitted a letter of support from **Kenny Nemitz. EXHIBIT (ags39a06)**

Proponents' Testimony:

Marc Bridges stood in support of the bill and also noted the support of **Ralph Peck, Montana Department of Agriculture.**

Pat Riley presented a packet of information to the committee in which his testimony was based. **EXHIBIT (ags39a07)**

Gloria Paladichuk stood in support of the bill. She noted the support of **Gary Amestoy, Project Manager for the West Crane Irrigation Project.** She explained the number of acres which where promised and developed opposed to the acres identified, as well as the acres taken. North Dakota was successful in passing the Dakota Water Resources act through Congress. They have paved the way for Montana.

John Tubbs presented a letter of support from **SEN. MAX BAUCUS. EXHIBIT (ags39a08)** He stood in support of the bill.

Mike Murphy stood in support of the bill. He stated this is important for the future of low cost irrigation in Montana.

Nancy Schlepp also stood in support of the bill.

Opponents' Testimony: none

Questions from Committee Members and Responses:

SEN. TESTER questioned what would happen if this power was taken from others, and how it would be replaced.

Pat Riley stated that the current holders of the low cost power contracts have always known that if Congress authorized a project, it would go to the irrigation districts first.

SEN. TESTER asked if **Mr. Riley** knew how many megawatts are being used by Montana co-ops.

Pat Riley stated that Minnesota receives 80% of this power.

SEN. TESTER asked if the power could be used to not develop irrigation, supply power, and keep power rates down for existing irrigation projects.

John Tubbs stated that is the current intention.

SEN. JERGESON asked if this will be available for everyone in Montana or just people who live on the lower Yellowstone River.

Pat Riley stated that the idea started as just the lower Yellowstone, but it now includes all of Montana. He explained private projects and studies being done to be a federal project. Projects west of the divide are not included.

Closing by Sponsor:

SEN. HOLDEN closed SJ 16 by explaining that **SEN. BAUCUS** and **SEN. CONRAD BURNS** need to know that they are supported in their efforts. Montana needs to keep its resources safe and in the state.

EXECUTIVE ACTION ON SJ 16

Motion/Vote: **SEN. HALLIGAN** moved that **SJ 16 DO PASS**. Motion carried unanimously.

EXECUTIVE ACTION ON SB 389

Motion: SEN. JERGESON moved that SB 389 DO PASS.

Discussion:

SEN. HOLDEN asked if government needed to be involved in public enterprise. This insurance can be purchased and is purchased by private insurance carriers. He asked should the government sell fire insurance as well as hail insurance.

SEN. ZOOK said the state put up money and people paid inexpensive premiums which is like a revolving fund.

Ralph Peck stated the premiums self support the program.

SEN. JERGESON stated this is limited coverage.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON SB 363

SEN. TESTER presented amendments to the committee and explained them. **EXHIBIT**(ags39a09)

Motion: SEN. TESTER moved that AMENDMENT SB036301.ADS BE ADOPTED.

Discussion:

SEN. ZOOK clarified the new language would shoot a hole in the pilot program.

SEN. TESTER stated it would limit the pilot program to certain diseases in which the U.S. Department of Agriculture has an eradication program.

SEN. ZOOK said this new language would eliminate the livestock program.

SEN. TESTER stated only if they unless they come to the state.

SEN. ZOOK questioned bangs vaccination. He explained part of the bill which discussed bangs vaccinations, and said cattle from Canada are unvaccinated. There is currently a federal eradication program.

Marc Bridges stated Canada is viewed as Brucellosis free. Montana has been required to bangs vaccinate to prevent brucellosis outbreaks. If Montana remains Brucellosis free for a certain period of time, the requirement will be repealed.

SEN. JERGESON questioned how the programs work regarding outbreaks of infectious disease in other countries.

Arnold Gertonson, Montana State Veterinarian explained the problems with disease in association with the qualifications for the program.

Vote: Motion **carried unanimously.**

SEN. HALLIGAN asked if the fiscal note would need to be revised after adopting the amendment.

Marc Bridges stated he did not believe there would be a change in the fiscal impact.

SEN. HALLIGAN asked if the fiscal note could be reduced.

Kathleen Martin, Department of Public Health and Human Services, stated as long as there is a pilot program for testing produce the fiscal impact would not be reduced.

Dennis Olsen, Northern Plains Resource Council stated the intent of the bill during the bill drafting was to move 10 or 40 tests from restaurants to imports.

Kathleen Martin discussed the details of the contract Montana has with the FDA and the requirements for approval of such programs.

SEN. WALT MCNUTT stated that there are great numbers of cattle being shipped to Canada to be fed. He asked if this bill would jeopardize the Montana cattle industry.

SEN. TESTER stated that feeding in the state has already dropped dramatically and it is unintended for any more decline associated with the bill.

SEN. MCNUTT said don't fix what is not broken.

SEN. ZOOK noted how important the cattle market is to Montana. Montana seems unwilling to build modern packing plants in order to compete with Canada. This is well intended but may have very serious consequences.

Motion/Vote: SEN. ZOOK moved that SB 363 BE TABLED. Motion carried 7-4 with Halligan, Jergeson, Pease, and Tester voting no.

EXECUTIVE ACTION ON SB 437

Motion: SEN. NELSON moved that SB 437 DO PASS.

Discussion:

Jeff Hagener explained the Department would support amendments which added language to include "land specifically leased for agricultural purposes". Presently there is a great deal of land leased by hunters or outfitters, which is not the intent of the bill.

SEN. NELSON suggested and explained an amendment to the bill regarding adjusting prices of tags or permits by the Fish and Game Commission in times of game damage, otherwise license prices must remain the same. SB043701.ads EXHIBIT (ags39a10)

Motion/Vote: SEN. NELSON moved that AMENDMENT SB043701.ADS BE ADOPTED. Motion carried unanimously.

SEN. JERGESON suggested new language regarding a designated lessee acting as an agent for the landowner. SB043701.ads

Doug Sternberg read the section including the suggested new language.

Motion/Vote: SEN. JERGESON moved that AMENDMENT SB043701.ADS BE ADOPTED. Motion carried unanimously.

SEN. HOLDEN noted the largest impacted areas would be areas on the river bottoms or mountainous areas.

SEN. JERGESON suggested language stating "leasing for agricultural purposes".

SEN. EKEGEREN questioned a farm income requirement.

SEN. JERGESON stated 1200 acres is too large and \$2500 is too small a sum in deciding qualification for this program following the intent of the bill, which does not include hobby farmers.

Motion/Vote: SEN. JERGESON moved that AMENDMENT SB043701.ADS BE ADOPTED. Motion carried unanimously.

SEN. HALLIGAN suggested an acreage requirement of 640 acres.

SEN. HOLDEN noted the effected acres would not lie together or be mountainous areas, which makes a 640 acre requirement hard to meet, even for people who are primarily engaged in agriculture.

SEN. JERGESON suggested 160 acres which is the standard subdivision. He stated there needs to be a number which clearly indicates an agricultural operation, possibly sales receipts of agricultural products.

SEN. MCNUTT suggested \$10,000 of gross receipts.

Doug Sternberg restated the proposed amendment: "To a resident who owns, is contracting to purchase, or is leasing for agricultural purposes, at lease 160 contiguous acres or more of land or has filed an appropriate internal revenue form for the previous year claiming at lease \$10,000 in agricultural receipts."

Motion: **SEN. JERGESON** moved that **AMENDMENT SB043701.ADS BE ADOPTED.**

Discussion:

SEN. HALLIGAN asked if the purpose was to make qualification harder for people.

SEN. JERGESON stated in some ways it makes it easier for farmers to qualify, but it does make it so they have to be engaged in agriculture.

SEN. ZOOK clarified farming, ranching and enjoyment purposes.

SEN. HALLIGAN questioned the opinion of the department with these changes.

Jeff Hagener stated the amount of farms over 640 acres and the idea of how many farms would qualify for the two complimentary tags if it were 160 acres.

SEN. TESTER stated a farm leased for hunting would have a hard time finding agriculture receipts.

Jeff Hagener stated if the requirement were 640 acres there would be 28,000 tags given out. If the requirement changed to 160 acres there would be 56,000 tags.

SEN. TESTER suggested cutting tags back because small farms who experience game damage are impacted just the same, if not more, than the bigger farms.

SEN. ZOOK stated if there is that kind of game damage, the tags need to be there.

SEN. MOHL suggested simplifying, just do the acreage and leaving the dollar amount out.

SEN. HOLDEN stated the reason for this is to create a limiting effect. If the dollar amount were gone it would be opened up to anyone.

Paul Sihler stated there are people who are buying enough acreage to apply for landowner preference and that is what the department is trying to avoid.

Vote: Motion **carried 8-3 with Halligan, Mohl, and Zook voting no.**

SEN. JERGESON stated he had two more amendments on section 1 and 2 which strikes "or" and inserts a designated tenant.

SEN. HALLIGAN suggested saying qualified landowner or lessee in place of designated tenant.

Motion/Vote: **SEN. JERGESON** moved that **SB043701.ADS BE ADOPTED.**
Motion carried unanimously.

SEN. JERGESON suggested making section 1 and 2 consistent with the language, "enters into a contractual public hunting access agreement with the department".

Doug Sternberg explained the amendment.

SEN. HOLDEN asked for the department's opinion

Jeff Hagener stated the amendment would be acceptable.

SEN. MCNUTT said that was a great policy statement.

Motion/Vote: **SEN. JERGESON** moved that **SB043701.ADS BE ADOPTED.**
Motion carried unanimously.

SEN. JERGESON suggested an amendment stating; "may issue 1 permit to a person who owns, is contracting to purchase, or is leasing for agricultural purposes at least 3,600 acres or more.

Motion/Vote: SEN. JERGESON moved that **SB043701.ADS BE ADOPTED.**
Motion carried unanimously.

SEN. JERGESON suggested changing \$2500 agriculture income to \$10,000 agricultural receipts.

SEN. EKEGREN stated that farmers are going to bounce around with the amounts of income and receipts from year to year.

SEN. HALLIGAN questioned silva culture as being included in the requirement.

Motion/Vote: SEN. NELSON moved that **SB 437 DO PASS AS AMENDED.**
Motion carried unanimously.

SEN. TESTER presented a letter to the Governor from the committee regarding a study of genetically modified organisms.

EXHIBIT (ags39a11)

SEN. NELSON proposed listing Senators by name on the letter.

Motion/Vote: SEN. TESTER moved to **SEND LETTER TO GOVERNOR MARTZ.**
Motion carried unanimously.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. RIC HOLDEN, Chairman

LARAMIE CUMLEY, Secretary

RH/LC

EXHIBIT (ags39aad)